

**IN THE MISSOURI DEPARTMENT OF INSURANCE,
FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION**

In Re: NATIONAL UNION FIRE)	
INSURANCE COMPANY)	
OF PITTSBURGH, PA.)	Case No. 141006688C
SERFF TRACKING NUMBER)	
AGDE-129605860)	

ORDER DISAPPROVING FORM FILING

Upon review and consideration of the filing of National Union Fire Insurance Company of Pittsburgh, Pa., SERFF Tracking Number AGDE-129605860, specifically Forms V50004NUFIC, V50005NUFIC, V50006NUFIC, and V50013NUFIC, the Deputy Director DISAPPROVES said forms for the reasons stated below.

FINDINGS OF FACT

1. John M. Huff is the Director of the Department of Insurance, Financial Institutions and Professional Registration, State of Missouri (“Director” of the “Department”).
2. National Union Fire Insurance Company of Pittsburgh, Pa. (“National Union Fire”), NAIC Number 19445, is a foreign life and health insurance company organized pursuant to the laws of the state of Pennsylvania and transacting insurance business in this state pursuant to a Certificate of Authority issued by the Director.
3. Pursuant to §376.405,¹ insurance companies licensed to transact business in this state may not deliver or issue for delivery in this state a policy of group accident or group health insurance unless the form has been approved.
4. The Division of Market Regulation (the “Division”) is designated pursuant to §374.075 with the review of forms that are filed by insurance companies.
5. National Union Fire filed forms with the Director via the System for Electronic Rate and Form Filing (“SERFF”) on September 19, 2014. The SERFF Tracking Number is AGDE-129605860 (“Filing”).
6. The Filing contains, in pertinent part, forms V50004NUFIC, identified as the Blanket Accident and Sickness Insurance Policy Volunteer Members (“Volunteer Members Policy”); V50005NUFIC, identified as the Blanket Accident and Sickness Insurance Policy Career Members (“Career Members Policy”) (or collectively as the “Policies”); V50006NUFIC, identified as the

¹ All statutory citations are to RSMo (Supp. 2013).

Policy Amendment Rider (“Amendment Rider”) and V50013NUFIC, identified as the Payment of Claims Rider (“Payment Rider”).

7. National Union Fire filed the forms within SERFF as Group Health-Blanket Accident/Sickness.
8. On page 25 of the Volunteer Members Policy and page 23 of the Career Members Policy under the section titled General Provisions and the subsection titled Incontestability, the forms state:

The validity of this policy will not be contested after it has been in force for two year(s) from the policy Effective Date shown in the **Schedule**, except as to nonpayment of premiums.

(Emphasis in originals.)

9. On page 26 of the Volunteer Members Policy and page 24 of the Career Members Policy under the section titled General Provisions and the subsection titled Misstatement of Age, the forms state:

If the benefits for which the **Insured Person** is insured are based on age and the **Insured Person** has misstated his or her age, there will be an adjustment of said benefit based on his or her true age. **We** may require satisfactory proof of age before paying any claim.

(Emphasis in originals.)

10. Nowhere within the Volunteer Members Policy or the Career Members Policy is there a provision containing a clear statement of the method of adjustment to be used in the event that the age of the covered person has been misstated.
11. On page 25 of the Volunteer Members Policy and 23 of the Career Members Policy under the section titled General Provisions and the subsection titled Time of Payment of Claims, the forms state:

When **We** receive written proof of loss, **We** will pay any benefits due. Benefits that provide for periodic payment will be paid at least monthly. When **Our** liability ends, **We** will pay any remaining balance as soon as **We** receive written proof of loss.

(Emphasis in originals.)

12. On page 1 of the Payment Rider, the form states:

In accordance with the Payment of Claims provision in the policy if the **Policyholder** so requests, **We** may (at **Our** option) pay such benefits to the **Policyholder** for transmittal to the **Insured Person** or beneficiary entitled to receive the benefits.

(Emphasis in original.)

13. On page 1 of both the Volunteer Members Policy and Career Members Policy under the section titled Policy Effective and Termination Dates and the subsection titled Termination Date, the forms state:

We may terminate this policy by giving 30 days advance notice in writing to the **Policyholder** and/or **Participating Organization**. This policy may, at any time, be terminated by mutual written consent of **Us** and the **Policyholder** and/or **Participating Organization**. Termination takes effect at 12:01 AM at the **Policyholder** and/or **Participating Organization's** address on the date of termination.

(Emphasis in originals.)

14. On page 1 of the Amendment Rider, the form states:

This rider is attached to and made a part of the above mentioned policy. It applies only with respect to **Injuries** or **Illnesses** that occur on or after the effective date shown above. Any changes in premium apply as of the effective date of this rider. This rider is subject to all of the provisions, benefits, limitations and exclusions of the policy except as they are specifically modified by this rider. If there is a conflict between the policy and this rider, the terms of this rider will govern. This rider amends the policy in the following manner:

(Emphasis in original.)

15. The Amendment Rider is essentially a blank form, in fact a substantially blank page, containing almost no language, other than the above statement, and which the company admits will be used with the policy.

CONCLUSIONS OF LAW

16. The Director shall approve only those policy forms that are in compliance with Missouri insurance laws, and "which contain such words, phraseology, conditions, and provisions which are specific, certain and unambiguous and

reasonably adequate to meet needed requirements for the protection of those insured,” pursuant to §376.405.

17. The Director may disapprove a form filed with the Department, and in doing so must state the reasons for the disapproval in writing, pursuant to §376.405.

National Union Fire’s Filing Does Not Substantively Provide All Provisions Required In All Group Policies Under Section 376.426

18. Section 376.426 states in relevant part:

No policy of group health insurance shall be delivered in this state unless it contains in substance the following provisions, or provisions which ... are more favorable...:

(2) *A provision* that the validity of the policy shall not be contested, except for nonpayment of premiums, after it has been in force for two years from its date of issue, and that *no statement made by any person covered under the policy relating to insurability shall be used in contesting the validity of the insurance with respect to which such statement was made after such insurance has been in force prior to the contest for a period of two years during such person's lifetime nor unless it is contained in a written instrument signed by the person making such statement; except that, no such provision shall preclude the assertion at any time of defenses based upon the person's ineligibility for coverage under the policy or upon other provisions in the policy;*

(6) *If the premiums or benefits vary by age, there shall be a provision specifying an equitable adjustment of premiums or of benefits, or both, to be made in the event the age of the covered person has been misstated, such provision to contain a clear statement of the method of adjustment to be used;*

(11) *A provision that all benefits payable under the policy other than benefits for loss of time shall be payable not more than thirty days after receipt of proof* and that, subject to due proof of loss, all accrued benefits payable under the policy for loss of time shall be paid not less frequently than monthly during the continuance of the period for which the insurer is liable, and that any balance remaining unpaid at the termination of such period shall be paid as soon as possible after receipt of such proof;

(12) *A provision* that benefits for accidental loss of life of a person insured shall be payable to the beneficiary designated by the person insured or, if the policy contains conditions pertaining to family status, the beneficiary may be the family member specified by the policy terms. In either case, payment of these benefits is subject to the provisions of the policy in the event no such designated or specified beneficiary is living at the death of the person insured. *All other benefits of the policy shall be payable to the person insured.* The policy may also provide that if any benefit is payable to the estate of a person, or to a person who is a minor or otherwise not competent to give a valid release, the insurer may pay such benefit, up to an amount not exceeding two thousand dollars, to any relative by blood or connection by marriage of such person who is deemed by the insurer to be equitably entitled thereto;

(15) *A provision specifying the conditions under which the policy may be terminated.* Such provision shall state that except for nonpayment of the required premium or the failure to meet continued underwriting standards, *the insurer may not terminate the policy prior to the first anniversary date of the effective date of the policy as specified therein, and a notice of any intention to terminate the policy by the insurer must be given to the policyholder at least thirty-one days prior to the effective date of the termination.* Any termination by the insurer shall be without prejudice to any expenses originating prior to the effective date of termination. An expense will be considered incurred on the date the medical care or supply is received[.]

(Emphasis added.)

19. National Union Fire's Policies are not compliant with Missouri insurance laws. Under the subsection titled Incontestability, the forms are missing the majority of the required notice provision in §376.426(2). The Policies state "[t]he validity of this policy will not be contested after it has been in force for two year(s)...except as to nonpayment of premiums;" however, the Policies do not contain the remainder of the required provision, which states:

that no statement made by any person covered under the policy relating to insurability shall be used in contesting the validity of the insurance with respect to which such statement was made after such insurance has been in force prior to the contest for a period of two years during such person's lifetime nor unless it is contained in a written instrument signed by the person making such statement; except that, no such provision

shall preclude the assertion at any time of defenses based upon the person's ineligibility for coverage under the policy or upon other provisions in the policy[.]

As such, the Volunteer Members Policy and Career Members Policy do not comply with the laws of this state as required by §376.405.

20. National Union Fire's Policies are not compliant with Missouri insurance laws. Under the subsection titled Misstatement of Age, the Policies provide that if there is a misstatement of age "there will be an adjustment of said benefit based on his or her true age." However, neither the Volunteer Members Policy nor the Career Members Policy provides a clear statement of the method of adjustment. Section 376.426(6) requires such a clear statement. As such, the Volunteer Members Policy and Career Members Policy do not comply with the laws of this state as required by §376.405.
21. National Union Fire's Policies are not compliant with Missouri insurance laws. Under the subsection titled Time of Payment of Claims, the Policies notify the insured that benefits due will be paid after National Union Fire receives written proof of loss. However, the Policies do not notify the insured that benefits due will be paid not more than 30 days after receipt of the proof of loss, as required by §376.426(11). As such, the Volunteer Members Policy and Career Members Policy do not comply with the laws of this state as required by §376.405.
22. National Union Fire's Payment Rider is not compliant with Missouri insurance laws. Under the subsection titled Payment of Claims, the Payment Rider notifies the insured that National Union Fire "may (at Our option) pay such benefits to the Policyholder for transmittal to the Insured Person or beneficiary entitled to receive the benefits." Pursuant to §376.426(12), the provision must substantively notify the insured that all benefits (other than for accidental loss of life) "shall be payable to the person insured[.]" Therefore, the Payment Rider does not comply with §376.426(12) because the form makes benefits optionally payable to the Policyholder and not the insured. As such, the Payment Rider does not comply with the laws of this state as required by §376.405.
23. National Union Fire's Policies are not compliant with Missouri insurance laws. Under the subsection titled Termination Date, the Policies fail to substantively provide several of the required provisions from §376.426(15) and are, therefore, noncompliant for the following reasons:
 - a. The Volunteer Members Policy and Career Members Policy fail to provide the statutorily required provision notifying the insured that National Union Fire may not terminate the policy prior to the first anniversary date.

- b. The Volunteer Members Policy and Career Members Policy provide that National Union Fire “may terminate this policy by giving 30 days advance notice in writing to the Policyholder[.]” Section 376.426(15) requires the insurer to give the insured at least 31 days’ notice. Because National Union Fire’s Policies include a time frame that is less than 31 days, it does not substantively provide the requirements of §376.426(15).

For these reasons, the Volunteer Members Policy and Career Members Policy do not comply with the laws of this state as required by §376.405.

National Union Fire’s Amendment Rider

- 24. “Specific” is defined as “precisely formulated or restricted; definite; explicit; of an exact or particular nature.”² “Certain” is defined as “ascertained; precise; identified; settled; exact; definitive; clearly known; unambiguous...”³ “An ambiguity exists when there is duplicity, indistinctness, or uncertainty in the meaning of the language in the policy. Language is ambiguous if it is reasonably open to different constructions.”⁴
- 25. National Union Fire’s Amendment Rider is not compliant with Missouri insurance laws. The Amendment Rider was submitted with almost no language and a large blank space, which would later be filled in by the company. The Amendment Rider is noncompliant for the following specific reasons:
 - a. Insurers are only allowed to provide policies of individual health insurance to insureds that have been approved by the Director. By submitting an almost blank form for approval and then later modifying that form, National Union Fire is attempting to avoid the review process provided in §376.405 to protect insureds. Further, by later modifying a form that had been previously submitted, National Union Fire would be providing an unsubmitted and unapproved form to insureds in violation of §376.405.
 - b. Because this form contains no substantive content as submitted, the provisions at the time of review are not specific, certain, or unambiguous.
 - c. Because this form contains no language for the Director to review as submitted, it is per se noncompliant with Missouri law. Regardless of the language National Union Fire later places in the form, because that

² *Black’s Law Dictionary* 1398 (6th ed., West 1990)

³ *Id.* at 225.

⁴ *Seeck v. Geico Gen. Ins. Co.*, 212 S.W. 3d 129, 132 (Mo. banc 2007).

language will not have received the Director's statutory review, the provisions are not reasonably adequate to meet the needed requirements of the insureds.

For these reasons the Amendment Rider uses word, phraseology, conditions, and provisions which are not specific, certain and unambiguous and reasonably adequate to meet needed requirements for the protection of those insured as required by 376.405. As such, the Amendment Rider does not comply with the laws of this state as required by §376.405.

26. After review and consideration of the forms included in the National Union Fire Filing, the company has failed to demonstrate its compliance with Missouri law as enumerated herein.
27. While there may be additional reasons as to why the forms do not comply with Missouri's insurance laws, the reasons stated herein are sufficient to disapprove the forms.
28. Each reason stated herein for disapproval of the forms is a separate and sufficient cause to disapprove such forms.
29. National Union Fire's Volunteer Members Policy, Career Members Policy, Amendment Rider, and Payment Rider do not comply with Missouri law. As such, said forms are not in the public interest.
30. This Order is in the public interest.

IT IS THEREFORE ORDERED that forms V50004NUFIC, V50005NUFIC, V50006NUFIC, and V50013NUFIC are hereby **DISAPPROVED**. National Union Fire Insurance Company of Pittsburgh, Pa. is hereby prohibited from delivering or issuing for delivery any policies of group health insurance utilizing said forms.

SO ORDERED, SIGNED AND OFFICIAL SEAL AFFIXED THIS 4th day of November, 2014.



JAMES R. MCADAMS
DEPUTY DIRECTOR

NOTICE

TO: National Union Fire Insurance Company of Pittsburgh, Pa. and any unnamed persons aggrieved by this Order:

You may request a hearing on the disapproval of this form. You may do so by filing a pleading with the Director of the Department of Insurance, Financial Institutions and Professional Registration, P.O. Box 690, Jefferson City, MO 65102, within 30 days after the mailing of this notice pursuant to 20 CSR 800-1.030.

CERTIFICATE OF SERVICE

I hereby certify that on this 4th day of November, 2014, a copy of the foregoing Order and Notice was

Served via certified mail addressed to:

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